

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN THE MATTER OF THE EXTRADITION
OF FADEL BERRI

07-M-1205 (VVP)

**MEMORANDUM AND FURTHER
CERTIFICATION AS TO EXTRADITION**

The Federal Republic of Germany seeks the extradition of the relator Fadel Berri to face prosecution on multiple counts of fraud in connection with the sale of long distance telephone services. The requested extradition was the subject of a Memorandum Opinion and Partial Certification as to Extradition issued by this court on September 11, 2008, familiarity with which is presumed. The extradition request, including the evidence submitted in support, as well as the legal considerations for analyzing the request, are addressed in that Memorandum Opinion and will not be repeated here. The court concluded that all prerequisites for extradition under applicable law had been met with respect to all but nine of the forty-seven counts of fraud for which extradition was sought. As to the remaining nine counts, the court concluded that the sole unmet prerequisite for extradition was that the evidence submitted in support of extradition did not adequately establish probable cause that the relator had committed the offenses charged in those counts. Accordingly, as the applicable Extradition Treaty provided that a requesting party was entitled to a period of time to submit further evidence in such situations, the court afforded the Federal Republic of Germany that opportunity. Within the time prescribed by the court (which included one unopposed extension of the original deadline), the Federal Republic of Germany provided further evidence for the court's consideration, and the parties were afforded the opportunity to submit further argument addressed to the additional evidence.

The additional evidence submitted by the Federal Republic of Germany consists primarily of several statements by co-conspirators who described their interaction with Berri in connection with the fraudulent scheme with which Berri is charged. The various statements provide the necessary links between Berri and each of the locations that correspond to the nine counts for which the court had previously determined probable cause was lacking. The statements of one

confederate, Baschkim Kamberi, are of particular significance as they explain Berri's involvement in directing Kamberi's activities in locating and renting a number of the locations, as well as Berri's connection to other confederates who were involved in renting other locations. Although Kamberi knew Berri under the name "Imat," there is sufficient evidence in the various statements and other evidence submitted to the court, including statements by Berri himself who acknowledged knowing and interacting with Kamberi, from which to conclude that "Imat" and Berri are the same person.

On the basis of all of the evidence submitted by the Federal Republic of Germany, including the additional evidence recently submitted, I now conclude that there is probable cause for all of the forty-seven charges in the Warrant for which extradition is sought. Accordingly, I hereby certify that all prerequisites under applicable law for the extradition of Fadel Berri on all charges in the Warrant has been established.

The clerk of the court is directed to forward the Memorandum Opinion and Partial Certification as to Extradition, dated September 11, 2008, along with this Memorandum and Further Certification as to Extradition, dated January 29, 2009, and all other requisite documents to the Secretary of State as provided by 18 U.S.C. § 3184.

SO ORDERED:

Viktor V. Pohorelsky

VIKTOR V. POHORELSKY
United States Magistrate Judge

Dated: Brooklyn, New York
January 29, 2009